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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 DARRYL W. RISER,

8 Plaintiff,

9 v.

10 WASHINGTON STATE
11 UNIVERSITY, DON HOLBROOK,
12 BRIAN ALLAN DIXON, and RANDI
13 N. CROYLE,

Defendants.

NO: 2:18-CV-0119-TOR

ORDER DENYING PLAINTIFF'S
MOTION FOR RECONSIDERATION

14 BEFORE THE COURT is Plaintiff Darryl W. Riser's Motion for
15 Reconsideration (ECF No. 25) noted for hearing on an expedited basis. The matter
16 was submitted without oral argument. The Court has reviewed the record and files
17 herein, and is fully informed.

18 "Reconsideration is appropriate if the district court (1) is presented with
19 newly discovered evidence, (2) committed clear error or the initial decision was
20 manifestly unjust, or (3) if there is an intervening change in controlling law." *Sch.*

1 *Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993); *United Nat. Ins.*
2 *Co. v. Spectrum Worldwide, Inc.*, 555 F.3d 772, 780 (9th Cir. 2009). “There may
3 also be other, highly unusual, circumstances warranting reconsideration.” *School*
4 *Dist. No. 1J*, 5 F.3d at 1263.

5 Plaintiff’s request for reconsideration simply reasserts plaintiff’s previous
6 allegation and clarifies that (1) Plaintiff delivered the underlying Motion (ECF
7 Nos. 3; 19) for extraordinary relief to Defendant WSU and (2) Plaintiff is not
8 pursuing claims based on retaliation or discrimination. ECF No. 25 at 2-6, ¶¶ 1-7.
9 The fact that Plaintiff gave Defendants notice means a temporary restraining order
10 is not the proper avenue of relief; where notice is given, the proper avenue is a
11 motion for preliminary injunction. This renders Plaintiffs request for a TRO moot.

12 Plaintiff seeks to preserve the *status quo*. The *status quo*, however, is that
13 Plaintiff is no longer employed by Defendant WSU. What Plaintiff really seeks is
14 a mandatory injunction to preserve the *status quo ante*, to undo what is already
15 done, and for that Plaintiff has failed to meet his extraordinary burden. “A
16 prohibitory injunction preserves the status quo. A mandatory injunction goes well
17 beyond simply maintaining the status quo pendente lite and is particularly
18 disfavored.” *Stanley v. Univ. of S. California*, 13 F.3d 1313, 1320 (9th Cir. 1994)
19 (citations, internal quotations and brackets omitted). Further, Plaintiff has not
20 shown irreparable harm. A loss of earnings, which may ultimately be recovered if

1 the lawsuit is successful, does not usually constitute irreparable injury. *Sampson v.*
2 *Murray*, 415 U.S. 61, 90 (1974) (“Mere injuries, however substantial, in terms of
3 money, time and energy necessarily expended in the absence of [injunctive relief],
4 are not enough. The possibility that adequate compensatory or other corrective
5 relief will be available at a later date, in the ordinary course of litigation, weighs
6 heavily against a claim of irreparable harm.”)

7 Plaintiff has not otherwise brought forward any additional support for his
8 contention that he was denied due process and equal protection. Rather, Plaintiff
9 merely cites to case law involving public employees who were not terminable at-
10 will, but rather could be terminated only for cause, ECF No. 25 at 4-6, ¶¶ 5-6,
11 which is not the case here. Even if it were, as noted in this Court’s previous Order
12 (ECF No. 23) the documents submitted by Plaintiff indicates that Plaintiff was
13 given adequate notice and an opportunity to be heard, and that the adverse actions
14 may have been justified, even assuming he could only be terminated for cause.
15 Thus, Plaintiff has not demonstrated a likelihood of success nor the other *Winter v.*
16 *Nat. Res. Def. Council, Inc.*, 555 U.S. 7 (2008) factors to justify the extraordinary
17 remedy of a mandatory injunction.

18 Plaintiff has thus failed to demonstrate reconsideration is proper.

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1 **ACCORDINGLY, IT IS HEREBY ORDERED:**

2 Plaintiff Darryl W. Riser's Motion for Reconsideration (ECF Nos. 25) is
3 **DENIED.**

4 The District Court Executive is directed to enter this Order and furnish
5 copies to the parties.

6 DATED May 17, 2018.



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A handwritten signature in blue ink that reads "Thomas O. Rice".

THOMAS O. RICE
Chief United States District Judge